

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 98, Section 4994  
of the General Industry Safety Orders

**Crane Hoisting—Use of Outriggers, Stabilizers and Other Supports****SUMMARY**

This rulemaking was initiated as a result of the Administrative Law Judge's (ALJ's) decision in Occupational Safety and Health Appeals Board Docket Nos. 01-R3D2-3732 through 3734, an appeal by Art's Trench Plate and K-Rail. In that matter, the Division of Occupational Safety and Health (Division) maintained that, while the crane at issue in the appeal was operating with its wheels off the working surface, Section 4994(a) required that the outriggers that supported the crane be fully extended as recommended by the manufacturer. The ALJ, on the other hand, stated that under appropriate circumstances, the requirements of Section 4994(a) could be satisfied if the outriggers are only partially extended.

The purpose of this rulemaking is to modify the wording of Section 4994(a) so as to remove the ambiguity illustrated by the divergent assertions of the Division and the ALJ and to add to the comprehensiveness of the safety order by including references to stabilizers in addition to outriggers.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION****Section 4994 Hoisting.**

Section 4994 contains a number of provisions intended to promote safety in crane hoisting. Section 4994(a) states in part that "cranes shall not be operated with wheels or tracks off the ground or working surface at any time unless properly bearing on outriggers." This proposal relieves the ambiguity as to whether the outriggers must be fully extended in order for the crane to be "properly bearing" on them. The proposal, in a new subsection (b)(3), would require that the outriggers be set in accordance with the crane manufacturer's specifications. If the crane manufacturer is out of business or the manufacturer specifications are not available, a "qualified person" is to determine the extent the outriggers are to be extended. "Qualified person" is defined at California Code of Regulations, Title 8, Section 3207. The provision regarding manufacturers that are out of business is necessary because even though specifications issued by such manufacturers might still be available, the manufacturers, being out of business, are not

able to modify those specifications in accordance with newly-acquired data. These amendments are necessary to clarify this standard for employers and enhance the safety of employees by assuring the crane does not tip over, which could result in serious injury or fatality.

This proposal would also add new subsections (b)(4) and (b)(5) in order to account for other accepted and widely used mechanisms for enhancing crane stability during hoisting. Subsection (b)(4) specifies the manner in which timbers, cribbing and structural members are to be used. Subsection (b)(5) specifies that when a crane is equipped with stabilizers, the stabilizers are to be used in accordance with provisions of a national consensus standard incorporated by reference. These amendments are necessary to further enhance employee safety by assuring crane stability to prevent serious injuries.

#### DOCUMENT RELIED UPON

1. The ALJ's decision in Occupational Safety and Health Appeals Board Docket Nos. 01-R3D2-3732 through 3734.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### DOCUMENT INCORPORATED BY REFERENCE

1. American Society of Mechanical Engineers, Articulating Boom Cranes, ASME B30.22-2000, Section 22-3.2, Operating Practices: Subsection 22-3.2.1, Handling the Load: (7) and (8).

Because ASME B30.22-2000 is copyrighted by the American Society of Mechanical Engineers, it is not practical to publish these requirements in Title 8. Therefore, it is proposed to incorporate the document by reference. Copies of this document are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

#### SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

## COST ESTIMATES OF PROPOSED ACTION

### Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

### Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

## DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

#### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

#### ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.